

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
February 4, 2008**

Members Present:

Michael Villyard
Michael Gallagher
Gene Camargo
Helen Dutmer
Ed Hardemon
George L. Alejos
Paul Klein
Mary Rogers
Liz Victor
Peter Vallone
Andrew Ozuna

Staff:

Roderick Sanchez, Director
Ted Murphee, Asst. City Attorney
Rudy Nino, Senior Planner
David Arciniega, Planner
David Simpson, Chief Sign Inspector

Call to Order

Pledge of Allegiance to the U.S. and Texas Flags.

Mr. Villyard, Chairman, called the meeting to order and called roll of the applicants for each case.

CASE NO. A-08-034

David Arciniega, Planner stated he received a letter from the applicant of Case No. A-08-034 requesting a continuance until March 3, 2008.

A motion was made by Mrs. Dutmer and was seconded by Mr. Alejos to continue this case until March 3, 2008 and all members voted in affirmative.

Mr. Ozuna arrived at 1:10 pm

CASE NO. A-07-069

Applicant – Jose and Neri Matutes
Lot 31, Block 15, NCB 12083
202 Sprucewood Lane
Zoned: “R-5” Residential Single Family District

The applicant is requesting for 1) a Special Exception, as required in the Unified Development Code, to erect a 6-foot tall ornamental-iron fence in the front yard, and 2) a complete variance from the Unified Development Code requirement that a minimum 20-foot front setback be maintained for front entry carports, in order to keep an existing carport on the (west) property line.

David Arciniega, Planner, presented background and staff's recommendation of denial on this case. He indicated 22 notices were mailed, 0 returned in favor and 6 were returned in opposition and no response from Shearer Hills/Ridgeview Neighborhood Association.

A motion was made by Mr. Gallagher and was seconded by Mr. Camargo to move this item to the end of the agenda and all members voted in affirmative.

CASE NO. A-08-028

Applicant – Ron and Prudence Ruckman

Lot 9 and the west 8.59 feet of Lot 10, Block 9, NCB 1879

629 West French Place

Zoned: "R-6" S NCD-2 Residential Single Family Alta Vista Neighborhood Conservation Overlay District with a Specific Use Authorization for a Bed and Breakfast with five (5) guest rooms.

The applicant is requesting for a 6-foot variance from the requirement that solid screen fences in side and rear yards be no taller than 6 feet, in order to keep a 12-foot tall solid screen fence in the side and rear yards.

David Arciniega, Planner, presented background and staff's recommendation of approval of this case. He indicated that there were 19 notices mailed, 4 returned in favor and 0 returned in opposition and no response from Alta Vista Neighborhood Association.

Ron Ruckman, owner, stated the purpose of this request is to allow for a bed and breakfast.

No citizens to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-08-028 closed.

MOTION

A motion was made **Mr. Gallagher**. Reference Appeal No. **A-08-028**, Variance application for a **6-foot variance from the requirement that solid screen fences in side and rear yards be no taller than 6 feet, in order to keep a 12-foot tall solid screen fence along the side east property line**. The legal description being **Lot 9 and the west 8.59 feet of Lot 10, Block 9, NCB 1879**, the address being **629 West French Place**, zoning being **"R-6" S NCD-2 Residential Single Family Alta Vista Neighborhood Conservation Overlay District with a**

Specific Use Authorization for a Bed and Breakfast with five (5) guest rooms. The applicant being **Ron and Prudence Ruckman**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-08-028**, application for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that such variance will not be contrary to the public interest in that **there appears to be support for this variance from the neighborhood**. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the topography of this land indicates that the structures are of such varying heights that it is necessary to provide a higher fence**. So that the spirit of the ordinance is observed and substantial justice is done in that **no other changes to the land are sought by the applicant**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **there is no change presented to the use of this property**. Such variance will not substantially or permanently injure the district in which that variance is sought in that **it appears that the Alta Vista Neighborhood Association has no objections**. Such variance will not alter the essential character of the districts in which the variance is sought in that **we have seen evidence that there are other fences in the area that have been built because of the similar problem**. Such variance will be in harmony with the spirit and purpose of this chapter in that **it appears to be that the primary use for this fence is to provide security in the neighborhood and that there seems to be problems with the house next door**. The plight of the property owner for which the variance is sought is due to unique circumstances existing on the property and not personal in nature or self-created, and not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that **City staff has looked over this entire request and has decided that it is something that could be approved by the Board of Adjustment and has recommended approval for both variances**. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **this is a specific variance for this specific property only**. The variance will not adversely affect the public health, safety or welfare of the public in that **no traffic or pedestrian or other safety concerns have been presented to this Board**. The motion was seconded by **Mr. Hardemon**.

AYES: Villyard, Victor, Hardemon, Dutmer, Alejos, Klein, Rogers, Ozuna, Gallagher, Vallone

NAYS: Camargo

THE VARIANCE WAS GRANTED.

CASE NO. A-08-029

Applicant – Fernando Tierrablanca
Lot 9 and the west 6 feet of Lot 8, NCB 6463
130 Dumoulin Avenue
Zoned: "RM-4" Residential Mixed District.

The applicant is requesting for a 1) an 8-foot variance from the Unified Development Code requirement that a minimum 20-foot front setback be maintained for front entry carports, in order to keep an existing carport 12 feet from front property line, 2) a 4-foot, 6-inch variance from the Unified Development Code requirement that a minimum 5-foot side setback be maintained in "RM-4" zoning districts, in order to keep the same carport 6 inches from the side property line, and 3) a 1-foot, 6-inch variance from the Unified Development Code requirement that predominantly open fences in front yards be no taller than 4 feet in order to keep a 5-foot, 6-inch tall predominantly open fence in the front yard.

David Arciniega, Planner, presented background and staff's recommendation of denial of this case. He indicated that there were 28 notices mailed, 5 returned in favor and 0 returned in opposition and no response from Denver Heights Neighborhood Association.

Melissa Blanco & Mrs. Tierrablanca, owner, stated the purpose of this request is to maintain the existing carport.

The following citizen(s) appeared to speak:

Edith Stockhardt, spoke in opposition.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-08-029 closed.

MOTION

A motion was made **Mr. Vallone**. In reference to Appeal No. A-08-029, a variance to allow 1) **an 8-foot variance from the Unified Development Code requirement that a minimum 20-foot front setback be maintained for front entry carports, in order to keep an existing carport 12 feet from front property line, 2) a 4-foot, 6-inch variance from the Unified Development Code requirement that a minimum 5-foot side setback be maintained in "RM-4" zoning districts, in order to keep the same carport 6 inches from the side property line, and 3) a 1-foot, 6-inch variance from the Unified Development Code requirement that predominantly open fences in front yards be no taller than 4 feet in order to keep a 5-foot, 6-inch tall predominantly open fence in the front yard.** The subject property is described as **Lot 9 and the west 6 feet of Lot 8, NCB 6463, located at 130 Dumoulin Avenue.** I move that the Board of Adjustment grant the applicants request regarding Appeal No. A-08-029, application for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that such variance will not be contrary to the public interest in that **similar fences have been noted in the neighborhood and one believed to be specifically at the property to the east on St. Anthony Avenue.** Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship **by removing the new medal frame carport and cutting down existing fence that has been put in place.** So that the spirit of the ordinance is observed and substantial justice is done in that **four other neighbors have responded with 1 in opposition to allow this**

condition to remain. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **this is a residential area and that it will not change that.** Such variance will not substantially or permanently injure the district in which that variance is sought in that **similar arrangements of carports and fences are found in the neighborhood.** Such variance will not alter the essential character of the districts in which the variance is sought in that **it will remain residential.** Such variance will be in harmony with the spirit and purpose of this chapter in that **the character of the neighborhood does not change.** The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **as it will remain residential in nature.** The variance will not adversely affect the public health, safety or welfare of the public in that **the owner has proposed to provide gutter along the property line in order to redirect drainage and trim down the height of the fence that is noted to be approximately 14 feet off Public Street.** The motion was seconded by **Mr. Hardemon.**

Mr. Camargo stated he would like to request from the maker of the motion and the person that second the motion if they would be willing to separate items 1 and 2 from 3 and vote independently for the carport and independently for the fence.

Mr. Vallone stated he would not have a problem with that. He stated he would prefer to do just that.

Mr. Vallone stated he would like to amend his motion to separate the two items. The motion was seconded by Mrs. Dutmer.

Mr. Vallone stated he would like to amend his motion to have to separate votes, the first being items 1 and 2: 1) **an 8-foot variance from the Unified Development Code requirement that a minimum 20-foot front setback be maintained for front entry carports, in order to keep an existing carport 12 feet from front property line,** 2) **a 4-foot, 6-inch variance from the Unified Development Code requirement that a minimum 5-foot side setback be maintained in "RM-4" zoning districts, in order to keep the same carport 6 inches from the side property line and the second for item 3: 3) a 1-foot, 6-inch variance from the Unified Development Code requirement that predominantly open fences in front yards be no taller than 4 feet in order to keep a 5-foot, 6-inch tall predominantly open fence in the front yard.** The motion was seconded by Mrs. Dutmer.

AYES: Dutmer, Alejos, Rogers, Ozuna, Gallagher, Vallone

NAYS: Villyard, Victor, Hardemon, Klein, Camargo

THE VARIANCE WAS DENIED

A motion was made by Mr. Vallone approve item 3: 3) **a 1-foot, 6-inch variance from the Unified Development Code requirement that predominantly open fences in front yards be no taller than 4 feet in order to keep a 5-foot, 6-inch tall predominantly open fence in the front yard.** The motion was seconded by Mrs. Dutmer.

AYES: Villyard, Dutmer, Alejos, Klein, Rogers, Ozuna, Gallagher, Camargo, Vallone
NAYS: Victor, Hardemon

THE VARIANCE WAS GRANTED.

CASE NO. A-08-030

Applicant – Quick Signs
Lot 3, Block 37, NCB 17877
8400 Marbach Road
Zoned: “C-3” Commercial District.

The applicant is requesting for to appeal the interpretation of Section 28-245 (Sign Code) by the Chief Sign Inspector that the removal and rebuilding of the nonconforming on-premise freestanding sign cabinet resulted in a violation and the termination of nonconforming rights to the sign.

David Arciniega, Planner, presented background and staff’s recommendation is to uphold the decision of the Chief Sign Inspector. He indicated that there were 28 notices mailed, 0 returned in favor and 0 returned in opposition and no response from Rainbow Hills Neighborhood Association.

Lawrence Mann, representative, stated the purpose of this request is to maintain their sign. He stated he removed the existing sign to have it refaced and resurface it as it poses a safety hazard to their customer’s vehicles.

MOTION

A motion was made by **Mrs. Rogers** and was seconded by **Mr. Gallagher** to continue this case until March 17, 2008 so the applicant can further discuss with the sign inspectors with regards to the case and all members voted in affirmative.

CASE NO. A-08-031

Applicant – Becky Thayer
Lot 24, Block 6, NCB 12766
2223 Glen Ivy
Zoned: “R-4” Residential Single Family District.

The applicant is requesting for a Special Exception, as required in the Unified Development Code, to operate a one-operator beauty shop in a residential area.

David Arciniega, Planner, presented background and staff’s recommendation of approval of this case. He indicated that there were 26 notices mailed, 4 returned in favor and 0 returned in opposition and no response from Dellview Area Neighborhood Association.

Becky Thayer, applicant, stated the purpose of this request is to allow for a one operator beauty shop.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-08-031 closed.

MOTION

A motion was made **Mrs. Rogers**. Regarding Appeal No. **A-08-031**, address being **2223 Glen Ivy**, legal description being **Lot 24, Block 6, NCB 12766**, applicant being **Becky Thayer**. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-08-031**, application for a Special Exception for the subject property described above, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception to operate a one-operator beauty shop in a residential area, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in UDC 35-399.01. Specifically, we find that the following conditions have been satisfied. The special exception will be in harmony with the spirit and purpose of the chapter in that **it has been shown that there are no violations on the property**. The public welfare and convenience will be substantially served in that **the shop will serve the people from the neighborhood**. The neighboring property will not be substantially injured by such proposed use in that **adequate parking is available for the customer and that there is no misuse factor involved**. **The neighbors have not come forward to protest this shop but rather have come forward with a positive petition in favor**. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought in that **the shop is contained within the house and does not alter the exterior of the house and is compatible with the other homes in the neighborhood**. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **it does not weaken the overall zoning of the area nor have a negative impact on the surrounding area**. Operational conditions are established as 9am to 3pm, Tuesday, Wednesday and Friday; 11am to 7pm on Thursday; 9am to 12pm on Saturday and closed Sunday and Monday. The total proposed hours of operation are 29 hours per week. The duration of this special exception is two years. The motion was seconded by **Mrs. Dutmer**.

AYES: Villyard, Victor, Hardemon, Dutmer, Alejos, Klein, Rogers, Ozuna, Gallagher, Carmargo, Vallone

NAYS: None

THE SPECIAL EXCEPTION WAS GRANTED.

CASE NO. A-08-032

Applicant – Sam Roque
Lot 7, Block 5, NCB 13956
5482 Joslyn Lane
Zoned: “R-6” Residential Single Family District.

The applicant is requesting for a 4-foot variance from the Unified Development Code requirement that a minimum 5-foot side setback be maintained in "R-6" zoning districts, in order to keep a carport 1-foot from the side property line.

David Arciniega, Planner, presented background and staff's recommendation of denial of this case. He indicated that there were 34 notices mailed, 1 returned in favor and 0 returned in opposition.

Sam Roque, applicant, stated the purpose of this request is to allow to maintain their existing carport.

No citizens to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-08-032 closed.

MOTION

A motion was made **Mr. Ozuna**. Regarding Appeal No. **A-08-032**, variance application for **5482 Joslyn Lane**, subject property description being **Lot 7, Block 5, NCB 13956**, the applicant being **Sam Roque**. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-08-032**, application for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that such variance will not be contrary to the public interest in that **the existing "R-6" zoning will remain and had no opposition from adjoining property owners, in fact had support from the one property that would be most affected by the carport.** Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the carport was built into the house and would be a great expense to the applicant to have to remove it or to reset the post.** So that the spirit of the ordinance is observed and substantial justice is done in that **the existing land uses will remain and there is no proposed changes to the land use.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the existing "R-6" zoning is to remain and there is no proposed variances to the existing land use.** Such variance will not substantially or permanently injure the district in which that variance is sought in that **the carport is prominent throughout the neighborhood and that there is not a special recognition for this particular property.** Such variance will not alter the essential character of the districts in which the variance is sought in that **the carports that are kind of built within or close to the setbacks are prevalent within the neighborhood and that there will be no affect on this particular property.** Such variance will be in harmony with the spirit and purpose of this chapter in that **no land use changes are requested.** The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **no other variances are requested.** The variance will not adversely affect the public health, safety or welfare of the

public in that ~~the setbacks in the adjoining lots will provide for light air and fire setback issues.~~ The motion was seconded by Mr. Klein.

AYES: Villyard, Alejos, Klein, Rogers, Ozuna, Gallagher, Camargo, Vallone

NAYS: Victor, Hardemon, Dutmer

THE VARIANCE WAS DENIED.

Mrs. Dutmer made a motion to reconsider the original motion and was seconded by Mr. Vallone.

AYES: Villyard, Hardemon, Dutmer, Alejos, Klein, Rogers, Ozuna, Gallagher, Camargo, Vallone

NAYS: Victor

MOTION TO RECONSIDER WAS GRANTED

Mr. Ozuna stated as maker of the motion he would like to amend his motion to add expound on point 9, that the applicant would be bound by the regulations which include the Fire Code by the City of San Antonio, in which case a firewall will be required, which is already required and was and was seconded by Mr. Gallagher.

AYES: Villyard, Dutmer, Alejos, Klein, Rogers, Ozuna, Gallagher, Camargo, Vallone

NAYS: Victor, Hardemon

THE VARIANCE WAS GRANTED.

CASE NO. A-08-033

Applicant – Roy Mass Youth Alternatives, Inc.
Lot 2, NCB 11682
3101 West Avenue
Zoned: “C-2” Commercial District.

The applicant is requesting for a 27-foot variance from the minimum 30-foot rear setback required in “C-2” zoning districts when abutting residential uses or residential zoning districts, in order to build a structure 3 feet from residential zoning.

David Arciniega, Planner, presented background and staff’s recommendation of denial of this case. He indicated that there were 34 notices mailed, 0 returned in favor and 1 returned in opposition and no response from Dellview Area Neighborhood Association.

T J Pinales, representative, stated the purpose of this request is to allow to construction of a building 3 feet from residential property.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-08-033 closed.

MOTION

A motion was made **Mrs. Rogers**. Regarding Appeal No. **A-08-033**, variance application for a 27-foot variance from the minimum 30-foot rear setback required in "C-2" zoning districts when abutting residential uses or residential zoning districts, in order to build a structure 3 feet from residential zoning, subject property being **3101 West Avenue, "C-2" Commercial District**, legal description being **Lot 2, NCB 11682**, Applicant being **Roy Mass Youth Alternatives, Inc.** I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-08-033**, application for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that such variance will not be contrary to the public interest in that **it will not alter the overall appearance or adversely affect the character of the area since the addition is at the rear of the building.** Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the facility needs to expand in order to serve the at risk youth in the neighborhood.** So that the spirit of the ordinance is observed and substantial justice is done in that **the applicant would be required to comply with any necessary permitting.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the use of the building remains the same.** Such variance will not substantially or permanently injure the district in which that variance is sought in that **the variance will not have a negative impact on the neighborhood or the surrounding area but rather a positive impact as it serves these at risk youths.** Such variance will not alter the essential character of the districts in which the variance is sought in that **the proposed structures in keeping with the current building configuration and will enhance the value of the property and serve the neighborhood.** Such variance will be in harmony with the spirit and purpose of this chapter in that **the proposed facility will promote the welfare in the community by serving these youths in a positive manner.** The plight of the property owner for which the variance is sought is due to unique circumstances existing on the property and not personal in nature or self-created, and not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that **it will enhance the overall community to have this facility expanded and utilized to it's fullest extent.** The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **the proposed variance will not weaken the overall zoning plan of the area.** The variance will not adversely affect the public health, safety or welfare of the public in that **the proposed additional structure will not in anyway create or cause adverse affect to the public.** Permits will be taken and inspections made to ensure safe construction of this building. The motion was seconded by **Mr. Camargo**.

AYES: Villyard, Victor, Dutmer, Alejos, Klein, Rogers, Ozuna, Gallagher, Camargo, Vallone

NAYS: None

THE VARIANCE WAS GRANTED.

CASE NO. A-07-069

Applicant – Jose and Neri Matutes
Lot 31, Block 15, NCB 12083
202 Sprucewood Lane
Zoned: “R-5” Residential Single-Family District

The applicant is requesting for 1) a Special Exception, as required in the Unified Development Code, to erect a 6-foot tall ornamental-iron fence in the front yard, and 2) a complete variance from the Unified Development Code requirement that a minimum 20-foot front setback be maintained for front entry carports, in order to keep an existing carport on the (west) property line.

David Arciniega, Planner, presented background and staff’s recommendation of denial on this case. He indicated 22 notices were mailed, 0 returned in favor and 6 were returned in opposition and no response from Shearer Hills/Ridgeview Neighborhood Association.

Peter Matutes, representative, stated the purpose of this request is to maintain their existing carport and to erect a 6-foot tall iron fence.

Staff received a letter of support from a surrounding property owner and was read into the record.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-07-069 closed.

MOTION

A motion was made **Mr. Ozuna**. Regarding Appeal No. **A-07-069**, Applicant being **Jose and Neri Matutes**, subject property description being **Lot 31, Block 15, NCB 12083**, address being **202 Sprucewood Lane**, application for 1) a Special Exception, as required in the Unified Development Code, to erect a 6-foot tall ornamental-iron fence in the front yard. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-07-069**, application for a Special Exception for the subject property described above, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in UDC 35-399.04. Specifically, we find that the following conditions have been satisfied. The special exception will be in harmony with the spirit and purpose of the chapter in that **the fence will be built within the regulations of the City’s Special Exemption requirements for ornamental medal fencing**. The public welfare and convenience will be substantially served in that **the applicant has demonstrated that there has been trespassing onto his property**. The neighboring property will not be substantially injured by such proposed use in that **for the most part the property would only share one property line with the adjoining property owner, who is in support**. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought in that **the “R-5” Residential Single Family District zoning district**

will remain. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the existing land use will remain.** The motion was seconded by **Mrs. Dutmer.**

AYES: Dutmer, Alejos, Klein, Rogers, Ozuna, Camargo, Vallone

NAYS: Villyard, Victor, Gallagher

THE SPECIAL EXCEPTION WAS DENIED.

A motion was made **Mr. Camargo.** I move that the Board of Adjustment in Case No. **A-07-069,** a request by **Jose and Neri Matutes,** on property **Lot 31, Block 15, NCB 12083,** also known as **202 Sprucewood Lane,** zoned **"R-5" Residential Single Family District,** that this Board grant a variance to keep an existing carport that is located on the west property line of the property mentioned above. The variance will not be contrary to the public interest in that it appears the opposition from the one owner of multiple properties across the street is objecting to the fencing and not necessarily to the existing carport. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the protection for these vehicles was to be had on this property it in effect would have to remove an existing portion of the residence in order to accommodate the vehicles and meet the setback requirement. So that the spirit of the ordinance is observed and substantial justice is done in that the structure that is existing here a number of years is not posing any visual obstruction and is very highly unlikely that there would have any vehicles parked behind vehicles that are currently parked under the carport because in fact they would be extent out onto the street and that is highly unlikely. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that the carport facility is a permitted use in the single family classification. Such variance will not substantially or permanently injure the district in which that variance is sought in that property immediately to the south is enclosed by 6-foot solid screen fence and it does not encroach on any visibility from the property owner's property to the south. Such variance will not alter the essential character of the districts in which the variance is sought in that in this particular configuration of this property being a corner lot that the existing carport does not pose a threat or a major violation to the existing ordinances. Such variance will be in harmony with the spirit and purpose of this chapter in that the carport is removed away from the front property line and residences that front onto Sprucewood Lane and actually gain access onto Dellwood, which is a side street or side yards of the properties on the opposite of the street. The plight of the property owner for which the variance is sought is due to unique circumstances existing on the property and not personal in nature or self-created, and not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that the option that this property owner would have in relocating this existing carport would be to the front of the property where the 20 foot setback could possibly be met from the photos that we have seen it would be more of an intrusion into the front setbacks of the residence fronting onto Sprucewood Lane. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that the carport does not impose any intrusion into the rights of the adjacent property owners. The variance will not adversely affect the public health, safety or welfare of the public in that if this

variance is granted permits will be required to ensure the structural stability of the existing carport. The motion was seconded by Mr. Gallagher.

AYES: Villyard, Dutmer, Alejos, Klein, Rogers, Ozuna, Gallagher, Camargo, Vallone
NAYS: Victor

THE VARIANCE WAS GRANTED.

CASE NO. A-08-034

Mr. Gallagher stated Case No. A-08-034 was originally continued until March 3, 2008 and being that the agenda is full he would like to motion that this case be considered on the March 17, 2008 Agenda and was seconded by Mr. Camargo with all members voted in affirmative.

Staff Report

Chairman Villyard stated there are 9 items scheduled for consideration on March 3, 2008 and would like to propose that March 3, 2008 Meeting begin at 10am.

Mr. Gallagher made a motion to begin March 3, 2008 meeting begin at 10 am and was seconded by Mr. Camargo with all members voted in affirmative.

Presentation of new evidence and a request by Ray and Joann Almaguer to re-open Case Number A-08-010 and waive 1 year limitation for an appeal for property addressed at 222 W. Emerson Avenue.

David Arciniega, Planner stated the applicant, Ray and Joann Almaguer submitted a letter to reopen Case No. A-08-010 as they have new evidence.

AYES: Victor, Dutmer, Alejos, Klein, Ozuna, Gallagher, Camargo, Vallone
NAYS: Villyard, Rogers

REQUEST DENIED.

Consideration of Sign Master Plan No. 08-005, The Commons at Wilderness Oak.


David Simpson, Chief Sign Inspector, briefed Board Members on Sign Master Plan No. 08-005, The Commons at Wilderness Oak.

Sign Master Plan No. 08-005 was voted on and approved with all members voted in affirmative.


Approval of the Minutes

Mrs. Dutner made a motion to approve minutes of January 7, 2008 and was seconded by Mr. Vallone and all members voted in the affirmative.

There being no further discussion, meeting adjourned at 6:30 pm.

APPROVED BY:  OR Michael Gallagher, Vice-Chair
D. Mike Villyard, Chairman

DATE: _____

ATTESTED BY:  DATE: 4-7-08
Christopher J. Looney
Development Services
Planning Manager